

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1356 of 1998

with
Civil Application No. 6522 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.
3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

AGRICULTURAL ASSISTANT TALUKA SEED FARM

Versus

RAGHABHAI PIRJIBHAI PATEL

Appearance:

MR CJ VIN for Petitioner

Mr. T.R.Mishra for Respondent No. 1

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 21/07/98

ORAL JUDGEMENT

Rule. Mr. T.R.Mishra learned advocate for the respondent waives service of notice of Rule.

2. Present writ petition is filed to challenge the award passed by the Labour Court, Surat in Reference No.112 of 1992.

3. Respondent Raghabhai Pirjibhai Patel was an employee of the present petitioner and he was retired from service at the age of 60 years. According to him he ought to have continued in service till the age of 62 years but he has been wrongly and illegally retired at the age of 60 years. He therefore, raised an industrial dispute which resulted in the said Reference No. 112 of 1992. Though the petitioner was served in the said reference as per the order passed by the Labour Court, the petitioner has not turned up and therefore, the Labour Court passed an ex-parte award on 20.10.1997 and present petition is filed against said ex-parte award. As per Gujarat Rules, Rule No.26, when there is an ex-parte award passed by the Labour Court/Industrial Court, the party against whom, an ex-parte order is passed can file an application before the Labour Court/Industrial Court to remove the ex-parte order passed against the party. Therefore in the circumstances, the petitioner should first go before the Labour Court, Surat with such an application under Rule 26 for getting said ex-parte award set aside. In case if the Labour Court does not entertain such an application, it will be open for him to come before this court against the award. As the ex-parte award is to be set aside on appreciation of question of facts, it would not be proper for this court to entertain this petition. Therefore, the petitioner should go before the Labour Court. The time consumed from the date of filing of this petition till this date should be excluded for the the purpose of considering the period of limitation for filing such an application under section 26.

2. My learned predecessor had directed the petitioner to pay costs of Rs.2000/- to the respondent which has been deposited by the petitioner. Same should be paid to the respondent by account payee cheque. The cheque be handed over to Mr. T.R.Mishra learned advocate for the respondent so as to enable him to forward the same directly to the respondent. With these observations the petition is disposed of. Rule discharged. No order as to costs.

In view of the disposal of the main petition, the CA does not survive. Hence CA is disposed of.

(S.D.Pandit.J)